

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appellant:	Jerry G. AGUREN	§	Confirmation No.:	5688
		§		
Serial No.:	10/669,822	§	Group Art Unit:	2163
		§		
Filed:	09/24/2003	§	Examiner:	M. P. Nguyen
		§		
For:	Method And System For	§	Docket No.:	200308699-1
	Implementing Storage	§		
	Strategies Of A File	§		
	Autonomously Of A User	§		

REPLY BRIEF

Mail Stop Appeal Brief – Patents

Date: April 30, 2008

Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

Sir:

In response to the Examiner's Answer dated March 25, 2008, Appellant submits this Reply Brief.

I. RESPONSE TO ARGUMENTS OF THE EXAMINER'S ANSWER

The server of representative claim 15 has several claimed attributes. The server is "coupled to the first storage device," the server is "configured to accept files in a user namespace and in a user file structure," the server "stores the file on at least one of the ... storage devices in a global namespace," and the server makes the selection of storage location "based on attributes of the storage devices and storage preferences for the files." In the Response to Arguments section of the Answer, the Answer relies on "The Server 120 **including the intelligent distributed file system 110**" as the claimed server¹, ignoring the fact that Mikesell clearly shows the server 120 and distributed file system 120 as separate entities. Combining the server 120 and the distributed file system 110 for purposes of the Response to Arguments is apparently to address the fact that the server 120 alone

¹ Examiner's Answer, page 6, paragraph spanning pages 6 and 7 (emphasis added).

does not have the claimed attributes. However, the position of the Response to Arguments relying on the combination is inconsistent with the actual rejection, which relies on the server 120 alone for the claimed server, and then separately relies on the smart storage units 114 as the claimed first and second storage devices.² The smart storage units 114 are clearly shown to be part of the of the distributed file system 110.³

If the Answer relies on the **combination** of the server 120 and distributed file system 110 to be the claimed server, then the Answer fails to make a *prima facie* case of anticipation for failing to disclose the separated claimed first and second storage devices. On the other hand, if the Answer relies on the server alone for the claimed server, then the Answer fails to make a *prima facie* case of anticipation because it is the smart storage units 114 of the distributed file system 110, not the server 120, that make decisions regarding where files are stored. In fact, it is Mikesell's switch 125, not the server 120, that decides with which smart storage unit 114 the server 120 can communicate in the first place.

II. CONCLUSION

It is believed that no extensions of time or fees are required, beyond those that may otherwise be provided for in documents accompanying this paper. However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 CFR § 1.136(a), are hereby authorized to be charged to Hewlett-Packard Development Company's Deposit Account No. 08-2025.

Respectfully submitted,

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² Examiner's Answer page 3, second, third and fourth bullet points.

³ See, e.g., Mikesell's Figure 2.